

Federal Highway Administrator **Mary Peters**

Remarks as prepared for delivery

National Fraud Conference on Highway Construction and Public Transportation

Wednesday, May 15

St. Louis, Missouri

I want to thank Missouri DOT . . . in particular, Henry Hungerbeeler, Director, and Sharon Schulte, Inspector General, for volunteering to host this second national fraud conference and for working on the program with the other sponsoring partners.

I'm happy to be here during National Transportation Week, which runs through Saturday. This is the one week a year when the entire transportation community joins together to bring attention to the importance of transportation to our nation. Roads and bridges are the backbone of the U.S. economy – we should never forget that the work we do assuring the mobility and safety of all Americans is very, very important.

As Secretary Mineta has said: “We are fortunate in this country to have a transportation system that fosters economic growth, quality of life and virtually unlimited access to goods, services and destinations.

“This system is no accident. It came about through decades of planning and hard work on the part of transportation professionals in all modes.”

The Secretary added that: “It is most appropriate that we take one week each year to celebrate the achievements that we have made in transportation and at the same time reflect on the challenges that lie ahead.”

Before I look ahead, I'd like to reflect on the challenges an earlier generation of transportation leaders faced, almost fifty years ago. The Interstate Highway Program got underway in 1956 and was quickly immersed in a cloud of controversy stemming from a series of abuses in right-of-way and contracting. Columnist Jack Anderson and broadcaster David Brinkley did features about it under the title "The Great Highway Robbery." The subhead on Anderson's article in ***Parade*** magazine: "Graft in the new road program is stealing your money."

*Reader's Digest* did an article called "Our Great Big Highway Bungle." In that 1960 article, the Digest wrote: "The American people in 1956 were sold a beautiful 27 billion dollar dream -- a 40,000 mile superhighway network that would sweep majestically from coast to coast and border to border."

The *Digest* continued: "Today it must be reported that the dream has become a nightmare of recklessness, extravagance, special privilege, bureaucratic stupidity and sometimes outright thievery."

Around the same time, an article in *Look* Magazine called "The Great Highway Scandals" was subheaded: "Outrageous fraud harasses the building of our vast new interstate-highway system."

Reacting to the barrage of criticism, some in Congress were thinking about killing the highway program before it got out of hand. The solution came when Speaker Sam Rayburn appointed a special subcommittee to investigate the allegations, headed by Rep. John Blatnik of Minnesota.

FHWA and its administrator, Rex Whitton, who was chief engineer of the Missouri State Highway Commission before coming to Washington in 1961, cooperated fully with the committee. Overall, Blatnik found some abuses, but also found they affected a relatively small part of the program.

At the same time, FHWA established an audit office under Joseph O'Conner, a former FBI agent, to give us the ability to root out abuses on our own. Those steps effectively ended the controversy. Audit functions were eventually shifted to the OIG.

We learned our lesson in the 1960s and for the most part, the lesson has stayed learned. But right now is a time when we have to rededicate ourselves to the vigilance of years past. When any program increases significantly in funding as the Federal-aid program did in 1998 under TEA-21 -- up 40% nationally and 51 percent here in Missouri -- risk increases. There are more opportunities and more temptation for people to cheat the system.

Lawmakers were aware of the danger. TEA-21 instructed the DOT Inspector General to place a greater emphasis on fraud detection and he has. People in all parts of the highway construction business have been prosecuted. Employees of FHWA, state DOTs, contractors, producers, suppliers, and professional services consultants have all done jail time. Public employees have ruined their careers, paid restitution, shamed their families, and forfeited their retirement. Quite an expensive price to pay for illegal gains.

Under Director Hungerbeeler, MoDOT was one of the first State DOTs to create an Inspector General position and office to better focus efforts on fraud allegations. It has been operating for about two years and has worked with the OIG and FBI on several cases. It has been active in monetary recovery, disciplining or separating employees, and in prosecutions.

I have more to say about combating fraud, but I want to take just a little time to tell you about some other areas where FHWA is concentrating its efforts.

- We went through an intensive effort to calibrate the direction of the agency and decide on the “Vital Few” priorities.
- We are moving ahead with the ongoing work that will lead to the Administration bill for the reauthorization of TEA-21.

First, a little background on the “Vital Few.” We identified three areas of special emphasis we must concentrate on. We tried to be realistic about our resources and what we could accomplish in the near term, the next three to five years.

We recognized that we cannot be all things to all people . . . that we must focus on one core business. We are the highway component of a transportation department. That must be our focus and our responsibility.

Our vital few, our three must do’s for the agency, are safety, environmental stewardship and streamlining, and congestion mitigation.

Let me add that security of our infrastructure and reauthorization of TEA-21 are very important. After all, Secretary Mineta was a key author of ISTEA a decade ago and remains a champion of its core principles. Other FHWA responsibilities beyond the vital few will not be neglected.

In addition to the vital few, the FHWA leadership team identified our key roles within the transportation community.

We are:

Leaders for National Mobility;

Innovators of a Better Future; and,

Stewards of National Highway Programs.

With stewardship comes our responsibility to raise the bar on the performance of our highway system. We must ensure financial accountability, and deliver the Federal-aid and Federal Lands programs as well as DBE (Disadvantaged Business Enterprise) contracts, consistent with the intent of Congress. The detection and avoidance of fraud is a big part of our stewardship responsibility.

DBE fraud is a particular concern. This fraud on Federal and Federal-aid projects is a violation of Federal law and subjects violators to criminal and civil penalties as well as possible debarment. It is of particular concern to me, to the Secretary and to the Inspector General. DBE fraud hurts all small businesses because it makes it more difficult for legitimate firms to do business.

DBE fraud occurs when businesses which do not qualify for the program are, nevertheless, certified. While firms not certified may appeal a State's denial -- ultimately to the Office of the Secretary -- the certification denial appeal process has identified some violators based on material the violators submit as part of their fraudulent applications. That process alone cannot be relied upon to be a substitute for vigilant administration of the certification process.

Fraud also occurs when a contractor uses "fronts" instead of real businesses to meet a contract goal. State project managers should know who does what on project sites, and must be encouraged to identify and report these kinds of violations.

When a contractor commits to using DBEs on a job, then simply ignores the commitment or uses its own resources to complete the item, the contract has been obtained under false circumstances. This is also a violation of the law and is unfair to both DBEs and other firms who were not selected to perform the work. I have asked our Division Administrators to work with the states to identify DBE fraud and when it is found, to take the necessary corrective action. We should not tolerate fraud in any of our programs and we will act vigorously to prevent it.

Remember, the Federal-aid highway program is a Federally-assisted, State-administered program, with most project and engineering decisions delegated to the states. FHWA oversight has evolved to focus primarily on process oversight in lieu of specific project oversight. With this shift in responsibility, we are calibrating our strategic direction and the capabilities of FHWA staff.

While strong technical and engineering expertise remain important, we recognize the need to hone staff expertise which reflect these new responsibilities, including financial and project management. Today we are less focused on rebar placement, pavement and guardrail, and more focused on the processes of planning, developing and delivering transportation programs.

We are working actively with the states to increase their capabilities so that each State DOT is adequately equipped to manage the responsibilities that come with the use of Federal funds. We verify that each State DOT has adequate internal control processes in place to effectively manage Federally-assisted projects.

We have been working very closely with the Ken Mead's office and with AASHTO to increase FHWA and state agency awareness of fraud.

Among our activities -- --

- Building on the success of the 2000 National Fraud Conference, this conference is focusing on both highway and transit.
- With AASHTO, we continue to enhance and expand the use of software programs to assist in administering projects.

- Through the inclusion of OIG investigators as instructors in the FHWA Contract Administration Core Curriculum, we are building our network and relationship with these key investigators to assist state offices in detecting and investigating fraud, waste and abuse.
- We look forward to putting the final touches on the new training course that the OIG is showcasing this week as part of the conference.
- The OIG just released a “Bribery Awareness Video.” Copies were distributed within the past month to all our division offices. I have seen it and it is an excellent overview of fraud, waste and abuse. We recommend you get a copy and show it to your employees.

Even with “state of the art” tools and processes, fraud may occur. Fraud schemes are sophisticated operations, and can operate undetected. If you have a concern, please seek help from the investigative experts in the OIG. Asking for help is not a reflection on the quality of your agency’s personnel or processes.

As states and local agencies expand the use of consultant services and implement new contracting procedures, we need to continually review the risks and revise our project management procedures to manage these risks.

As public employees, we need to be sure all our employees understand what their responsibilities are and that they conduct their duties with the highest ethical standards.

The strongest message that we collectively can send is that all of us -- local agencies, states, and FHWA -- will only consider doing business with responsible contractors.

FHWA will continue to take prompt Federal action, but local agency and state actions are also needed so we send a strong message to those who do business with us. As people are disciplined, required to pay restitution, or prosecuted, some people planning to commit fraud will give up their schemes. But others will find ever more subtle ways to steal.

We need to be diligent in detecting fraud activities and find ways to be smarter than those who cheat the system. The work that you do is important to FHWA and to the whole transportation industry. Always remember, we are protecting the investment of American taxpayers.

We have a long history of success. Now, more than ever, we have to be wary, we have to be vigilant, and we have to stay prepared.

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